IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No. 4426 of 2000

For Approval and Signature:

HONOURABLE MR.JUSTICE AKIL KURESHI

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1 Whether Reporters of Local Papers may be allowed to see the judgment ?

2 To be referred to the Reporter or not ?

3 Whether their Lordships wish to see the fair copy of the judgment ?

4 Whether this case involves a substantial question of law as to the interpretation of the constitution of India, 1950 or any order made thereunder ?

5 Whether it is to be circulated to the civil judge ?

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C M CHAUDHARY SARVAJANIK VIDYALAYA - Petitioner(s)
Versus
STATE OF GUJARAT & 2 - Respondent(s)

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Appearance :
M/S.VYAS ASSOCIATES for Petitioner(s) : 1,
MR JK SHAH, AGP for Respondent(s) : 1 - 3.

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CORAM : HONOURABLE MR.JUSTICE AKIL KURESHI

Date : 17/11/2006

ORAL JUDGMENT

1. Issue involved herein is regarding the legality of two Government Resolutions both dated 2nd July, 1999.

2. The Government had earlier decided to provide for house rent as well as property taxes to the trusts running their schools from rented premises. By a resolution dated 2nd July, 1999, Government decided to give 65% of the expenses and also bear 35% for house rent and maintenance. Simultaneously, by another resolution dated 2nd July, 1999, Government gave option to such educational trusts to charge higher fees to the student.

3. Learned advocate for the petitioner points out that in group of petitions being Special Civil Application No.5795/1999 and connected matters involving identical questions, learned Single Judge passed a final order on 6th July, 2001 in which following directions were given :

" DIRECTIONS TO THE RESPONDENTS:

1. The Chief Secretary of the State of Gujarat, shall appoint or nominate a Committee, may be of one person but who shall not be below the rank of Secretary of the State Government.

2. This group of petitions shall be treated as representations, which shall be forwarded to the Committee.

3. The committee shall consider the representations of the petitioners in so far as the implementation of the two resolutions for the relevant academic year is concerned, since the prayer for setting aside the resolutions is not pressed.

4. It will be open for the committee to examine all the points and the grievances voiced in this group of petitions and submit its reports, after hearing both the sides, to the Chief Secretary, within the period fixed by the Chief Secretary.

5. The Chief Secretary shall consider the report of of the Committee and will also consider as to whether or not some of the petitioners were involved in formulating the policy culminating into the impugned resolutions and whether such persons made solemn commitment to abide by the revised formula. Obviously, such persons shall not be entitled to object to the formula and the two impugned resolutions in relation to grant-in-aid, and it will be open for the respondent authorities to appropriately deal with such petitioners.

5. The Chief Secretary, and in case the Chief Secretary finds it difficult to deal with on account of administrative contingency or exigency, it will be open for him to depute a responsible person to deal with the decide the representations and report of the committee. The decision that may be taken by the Chief Secretary or his authorised delegate or nominee, obviously, who shall not be below the rank of Additional Chief Secretary, shall be communicated to the affected persons and shall not be executed or implemented for a period of four weeks thereafter.

After having taken into consideration the factual projections coupled with the legal proposition and the powers of this Court under Article 226 and the aforesaid proposition of law highlighted in this judgment hereinabove, and the rival submissions, this Court is of the clear opinion that it would be absolutely imperative for the issuance of directions contained hereinabove in the larger interest of justice.

The entire batch of 109 petitions shall stand, partly, allowed to the aforesaid extent without any order as to costs. Rule made absolute to the aforesaid extent. The interim order granted earlier shall remain operative till the expiry of the period of four weeks after the decision in relation to the representations of the petitioners."

4. For some reason, this petition though forming a part of the same group, was not disposed of at the relevant time.

5. Under the circumstances, though it may not be possible to give similar directions in this petition, it is expected that the respondents

shall give the same treatment to the present petitioner as is being given to other institutions which were involved in the said group of petitions.

6. For the above purpose, the present petition will be treated as representation of the petitioner by the respondents and be disposed of in accordance with rules bearing in mind the developments which may have taken place after this Court gave directions in its order dated 6th July, 2001 noted here-in-above. This exercise may be completed expeditiously and preferably within a period of four months from the date of receipt of a copy of this order. The ultimate conclusion of the Government will be communicated to the petitioner.

7. With these directions, the petition is disposed of. Rule is made absolute to the above extent with no order as to costs.

(Akil Kureshi, J.)

(raghu)